

**Department of Housing & Community Development**  
**Chapter 40T Guidance on Sale by Owner to Designee or Third Party, 760 CMR 64.06**

*I. Department Consideration of Economic Terms*

Consistent with 760 CMR 64.06 (3), in making a determination as to whether the economic terms and conditions of a Purchase Contract are the same as or materially more favorable than those provided to the Third Party, the Department will consider the aggregate effect of the following factors, as viewed in the context of negotiating complex real estate transactions:

- A. Change in the purchase price;
- B. Change to the description of the property;
- C. Change in the underlying structure of the transaction (*e.g.*, conveyance of ground lease instead of fee; seller financing offer by the Owner);
- D. Change in the amount and/or terms and conditions of the Purchaser's deposit, or in the Time For Performance (provided that so long as these provisions comply without exception with the terms and conditions set forth in M.G.L. c. 40T, § 4(b), any change shall not be considered material);
- E. Any change in the relative responsibilities imposed upon either side as a condition of Sale (*e.g.*: additional improvements or site remediation undertaken by Owner prior to Sale; Purchaser taking responsibility for costs of the transaction usually assumed by the Owner); and
- F. Any new information raised by the Purchaser's due diligence (provided no material information was previously withheld from the Department and its Designee by the Owner).